



Headquarters Policy Flash

FLASH 2002-09

DATE: February 20, 2002
TO: Procurement Directors
FROM: Office of Procurement and Assistance Policy, ME-61
Office of Procurement and Assistance Management

SUBJECT: **Federal Acquisition Circulars (FAC) 2001-04 and Notice of Proposed Rulemaking: Electronic Listing of Acquisition Vehicles Available for Use by More Than One Agency**

SUMMARY: This Policy Flash summarizes the items in FAC 2001-04 and a proposed rule, which were published in the Federal Register on February 8, 2002, at 67 FR 6112 and February 15, 2002, at 67 FR 7256, respectively. Contracting personnel should review the details of each item in full text of the FAC and the notice of proposed rulemaking.

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A. Federal Acquisition Circular (FAC) 2001-04

The following seven items are in FAC 2001-04, which was published in the Federal Register on February 8, 2002, at 67 FR 6112. Items 1-6 are effective February 20, 2002, and item 7 was effective February 8, 2001. The FAC is available via the internet at <http://www.arnet.gov/far/facsframe.html>

Effective Date: February 20, 2002(Items 1-6)

1. Definitions for Classified Acquisitions (FAR Case 2000-404)

This final rule amends FAR Part 2, Definitions, Part 4, Administrative Matters, Part 14, Sealed Bidding, and Part 32 Contract Financing. The rule amends the FAR to address inconsistencies in definitions that are used for classified acquisitions. The final rule-

- ☞ Moves the definition of “classified acquisition,” “classified contract,” and “classified information” from FAR 4.401 to FAR 2.101 because these definitions apply to more than one FAR part.
- ☞ Amends definition of classified information to reflect classification of privately generated restricted data in accordance with DOE regulations; and
- ☞ Clarifies the policy regarding bid openings for classified acquisitions at FAR 14.402-2.

2. Special Simplified Procedures for Purchases of Commercial Items in Excess of the Simplified Acquisition Threshold (FAR Case 2002-002)

Applicability Date: FAR Subpart 13.5, as amended by this rule, is applicable to solicitations issued on or after January 1, 2002.

This rule amends FAR Subpart 13.5 to extend, through January 1, 2003 the expiration of the test of special simplified procedures for purchases of commercial items greater than the simplified acquisition threshold, but not exceeding \$5,000,000.

Note: This rule supersedes the Class Deviation from Federal Acquisition Regulation (FAR 13.5), Test Program for Certain Commercial Items issued as an attachment to Flash 2002-05.

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3. Notification of Noncompliance With Cost Accounting Standards (FAR Case 2001-013)

The final rule amends FAR Subpart 15.4, Contract Pricing, Table 15-2 Instruction for Submitting Cost/Price Proposals When Cost or Pricing Data are Required. The rule -

- ☞ Affects cost accounting standard covered contracts where cost or pricing data are required; and
- ☞ Removes the requirement for a contractor to notify the contracting officer when there is a noncompliance that has an immaterial cost impact.

4. Executive Order 13204, Revocation of Executive Order on Nondisplacement of Qualified Workers Under Certain Contracts (FAR Case 2001-017)

This final rule converts an interim rule published in the Federal Register at 66 FR 27416, May 16 2001, without change. This rule-

- ☞ Finalizes the implementation of Executive Order (E.O.) 13204, Revocation of E.O. on Nondisplacement of Qualified Workers Under Certain Contracts, signed by the President on February 17, 2001. Requiring that any rule implementing E.O. 12933, Nondisplacement of Qualified Workers Under Certain Contracts be promptly rescinded.
- ☞ Removes FAR Subpart 22.12 and the clause at 52.222-50.
- ☞ Amends FAR clause 52.212-5 by revising the date and removing paragraph (c)(6).
- ☞ Directs the Contracting Officer not to take any action on any complaint filed under former FAR Subpart 22.12.

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5. Caribbean Basin Country End Products (FAR Case 2000-306)

This is an interim rule, with request for comments, amends FAR 25.003, Definitions, 25.400, Scope of Subpart 25.404, Caribbean Basin Trade Initiative, and the clause at 52.225-5, Trade Agreements, to implement the determination of the United States Trade Representative to renew the treatment of Caribbean Basin country end products as eligible products under the Trade Agreements Act (TAA), except those end products from the Dominican Republic, Honduras, and Panama. The rule-

- ☛ Applies only if an acquisition is subject to the TAA (see FAR 25.403);
- ☛ Removes Panama from the definition of Caribbean Basin;
- ☛ Provides that offers of end products from Dominican Republic, Honduras, and Panama are no longer acceptable under acquisitions subject to TAA;
- ☛ Provides that unless the contracting officer receives an offer of U.S. made end products or eligible products (designated, Caribbean Basin, or NAFTA country end products) end products from Dominican Republic, Honduras and Panama are acceptable;
- ☛ Amends the definition of “Caribbean Basin country end product” identifying which countries qualify for the enhanced trade benefits under the Act; and
- ☛ Determines that the definition of “Caribbean Basin country end product” excludes products that do not qualify for duty-free treatment.

6. Final Contract Voucher Submission (FAR Case 1999-026)

This final rule amends FAR 42.705, Final indirect cost rates, and FAR 52.216-7, Allowable Cost and Payment. The rule-

- ☛ Directs the contracting officer to unilaterally determine the final contract payment amount when the contractor does not submit a final invoice or voucher for payment within time frame specified in the contract; and
- ☛ Applies to contracting officer that administer contract closeout procedures.

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7. Technical Amendments

This final rule amends certain sections of FAR by updating and making editorial changes.

B. Notice of Proposed Rulemaking: Electronic Listing of Acquisition Vehicles Available for Use By More Than One Agency.

The following item was published in the Federal Register on February 15, 2002, at 67 FR 7256. The FAC is available via the Internet at <http://www.arnet.gov/far/facsframe.html>

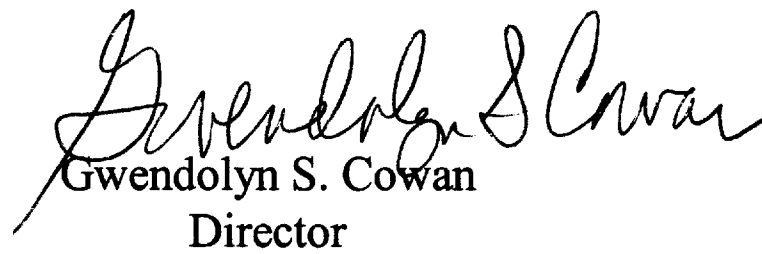
The proposed rule would amend the FAR to require contracting activities to input information online for 1) Government-wide acquisition contracts (GWAC), 2) multi-agency contracts, 3) GSA Federal Supply Schedule (FSS) contracts, 4) blanket purchase agreements (BPAs) under FSS contracts, and 5) other procurement instruments intended for multiple agency use. The proposed rule-

- ☛ Adds a new FAR subpart to provide contracting officers and program managers an online source of information on contracts intended for multiple agency use;
- ☛ Adds a new FAR subpart to publicize multi-agency use contracts that-
 - ✓ Provides the internet address to access the database;
 - ✓ Requires contracting activities to enter information into the database within ten days of contract award; and
 - ✓ Requires contracting activities to enter information into the database by a specific date on all existing contracts and other procurement instruments.

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- ✓ Furnishes information about GWACs, multi-agency contracts, General Services Administration FSS contracts, BPAs under FSS contracts, and other procurement instruments intended for multiple agency use via the internet at <http://www.arnet.gov/gwac/govwide.html>

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cc:
PPAG Members